

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JIMMIE MECCYA WILLIAMS,

Plaintiff,

**05 CV 5909 (HB) (DFE)**

vs.

**ANSWER**

TADD LAZARUS, M.D., P.C, ET Al. and  
ST. CLARE'S HOSPITAL and HEALTH CENTER,

Defendants.  
-----X

Defendant **ST. CLARE'S HOSPITAL and HEALTH CENTER, n/k/a**  
**ST. VINCENT'S MIDTOWN HOSPITAL**, by their attorneys SILVERSON, PARERES  
& LOMBARDI, LLP, answering the Complaint of the plaintiff, alleges the following:

1. Denies knowledge or information sufficient to form a belief as to  
the truth of the allegations contained in the paragraph of the complaint  
designated "1".

2. Denies knowledge or information sufficient to form a belief as to  
the truth of the allegations contained in the paragraph of the complaint  
designated "2".

3. Denies each and every allegation contained in the paragraph of the  
complaint designated "3", in the form alleged therein, except admits that **ST.**  
**CLARE'S HOSPITAL AND HEALTH CENTER, n/k/a ST. VINCENT'S MIDTOWN**  
**HOSPITAL**, was and still is a hospital and not-for-profit corporation duly  
organized and existing under and by virtue of the laws of the State of New York  
and located at 415 West Fifty-First Street, New York, New York.

4. Denies each and every allegation contained in the paragraph

designated of the complaint designated "4".

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the paragraph of the complaint designated "5".

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the paragraph of the complaint designated "6".

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the paragraph of the complaint designated "7".

8. Denies each and every allegation contained in the paragraph of the complaint designated "8".

9. Denies each and every allegation contained in the paragraph of the complaint designated "9".

10. Denies each and every allegation contained in the paragraph of the complaint designated "10".

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the paragraph of the Complaint designated "11".

12. Denies each and every allegation contained in the paragraph of the complaint designated "12".

13. Denies each and every allegation contained in the paragraph of the complaint designated "13".

14. Denies each and every allegation contained in the paragraph of the complaint designated "14".

15. Denies each and every allegation contained in the paragraph of the complaint designated "15".

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the paragraph of the Complaint designated "16".

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in the paragraph of the complaint designated "17".

18. Denies each and every allegation contained in the paragraph of the complaint designated "18(a-j)" inclusive.

19. Denies each and every allegation contained in the paragraph of the complaint designated "19".

20. Denies each and every allegation contained in the paragraph of the complaint designated "20".

21. Denies each and every allegation contained in the paragraph of the complaint designated "21".

22. Denies each and every allegation contained in the paragraph of the complaint designated "22".

23. Denies each and every allegation contained in the paragraph of the complaint designated "23".

24. Denies each and every allegation contained in the paragraph of

the complaint designated "24".

25. Denies each and every allegation contained in the paragraph of the complaint designated "25".

26. Denies each and every allegation contained in the paragraph of the complaint designated "26".

**AS AND FOR AN ANSWER TO COUNT ONE**

27. Defendant, **ST. CLARE'S HOSPITAL AND HEALTH CENTER, n/k/a ST. VINCENT'S MIDTOWN HOSPITAL**, incorporates herein, each and every denial and every denial of knowledge or information sufficient to form a belief as to the allegations contained in paragraphs "1" through "27" inclusive, as though specifically set forth herein as a response to paragraph "28".

28. Denies each and every allegation contained in the paragraph of the complaint "29".

29. Denies each and every allegation contained in the paragraph of the complaint designated "30".

**AS AND FOR AN ANSWER TO COUNT TWO**

30. Defendant, **ST. CLARE'S HOSPITAL AND HEALTH CENTER, n/k/a ST. VINCENT'S MIDTOWN HOSPITAL**, incorporates herein each and every denial and every denial of knowledge or information sufficient to form a belief as to the allegations contained in paragraphs "1" through "30" inclusive, as though specifically set forth herein as a response to paragraph "31".

31. Denies each and every allegation contained in the paragraph of the Complaint designated "32".

32. Denies each and every allegation contained in the paragraph of the Complaint designated "33".

**AS AND FOR AN ANSWER TO COUNT THREE**

33. Defendant, **ST. CLARE'S HOSPITAL AND HEALTH CENTER, n/k/a ST. VINCENT'S MIDTOWN HOSPITAL**, incorporates herein each and every denial and every denial of knowledge or information sufficient to form a belief as to the allegations contained in paragraphs "1" through "33" inclusive, as though specifically set forth herein as a response to paragraph "34".

34. Denies each and every allegation contained in the paragraph of the Complaint designated "35(a-e)" inclusive.

35. Denies each and every allegation contained in the paragraph of the Complaint designated "36".

**AS AND FOR AN ANSWER TO COUNT FOUR**

36. Defendant, **ST. CLARE'S HOSPITAL AND HEALTH CENTER, n/k/a ST. VINCENT'S MIDTOWN HOSPITAL**, incorporates herein each and every denial and every denial of knowledge or information sufficient to form a belief as to the allegations contained in paragraphs "1" through "36" inclusive, as though specifically set forth herein as a response to paragraph "37".

37. Denies each and every allegation contained in the paragraph of the complaint designated "38".

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE**

38. Plaintiff's claims are barred in whole or in part, by the applicable Statutes of Limitations.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE**

39. The Court lacks subject matter jurisdiction in this matter.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE**

40. Plaintiff's Complaint fails to state a cause or causes of action upon which relief can be granted.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE**

41. Whatever injuries plaintiff may have sustained at the time and place alleged in the Complaint were caused in whole or in part or were contributed to by the culpable conduct and want of care on the part of the plaintiff and without any negligence or fault or want of care on the part of the defendant.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE**

42. That if any liability is found as against this answering defendant, then said liability will constitute 50% or less of the total liability assigned to all persons liable and, as such, the liability of this answering defendant to plaintiff for non-economic loss shall be limited and shall not exceed this answering defendant's equitable share, as provided in Article 16 of the CPLR.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE**

43. Upon information and belief, any past or future costs or expenses incurred or to be incurred by the plaintiff for medical care, dental care, custodial care or rehabilitative services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from a collateral source as defined in Section 4545(c) of the New York Civil Practice Law and Rules, and consequently, if any damages are recoverable against the said

answering defendant, the amount of such damages shall be diminished by the amount of the funds which plaintiff has or shall received from such collateral source.

**WHEREFORE**, defendant **ST. CLARE'S HOSPITAL AND HEALTH CENTER, n/k/a ST. VINCENT'S MIDTOWN HOSPITAL**, demands judgment dismissing the plaintiff's Complaint together with defendant's costs and disbursements.

Dated: New York, New York  
October 12, 2005

Respectfully submitted,

SILVERSON, PARERES & LOMBARDI LLP

BY: 

Victoria Lombardi

Attorneys for Defendant

**ST. CLARE'S HOSPITAL and  
HEALTH CENTER, n/k/a**

**ST. VINCENT'S MIDTOWN HOSPITAL**

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212-557-1818

TO: Jimmie Meccya Williams  
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